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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2011-974*

12 **MICHAEL SCOTT ADDAIR**  
13 **RT 1 Box 235A**  
**Honaker, VA 24260**  
14 **Registered Nurse License No. 656199**

**A C C U S A T I O N**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about April 13, 2005, the Board of Registered Nursing issued Registered Nurse  
23 License Number 656199 to Michael Scott Addair (Respondent). The Registered Nurse License  
24 expired on January 31, 2011, and has not been renewed.  
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1 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that  
2 action.”

3 ...

4 (e) Making or giving any false statement or information in connection with the application  
5 for certificate or license.”

#### 6 COST RECOVERY

7 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
8 administrative law judge to direct a licentiate found to have committed a violation or violations of  
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
10 enforcement of the case.

#### 11 FIRST CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct – Out of State Discipline)  
(Bus. & Prof. Code § 2761, subd. (a)(4))

13 9. Respondent has subjected his registered nurse license to disciplinary action under  
14 Code section 2761, subdivision (a)(4), in that on or about February 20, 2008, in a disciplinary  
15 action before the Kentucky Board of Nursing (Kentucky Board), Case No. 2007-1044, the  
16 Kentucky Board entered an Agreed Order accepting Respondent’s voluntary surrender of his  
17 Kentucky registered nurse license and advanced registered nurse practitioner registration for at  
18 least one year. The Agreed Order stated that the Kentucky Board had probable cause to believe  
19 that Respondent had violated Kentucky law.

#### 20 SECOND CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct – Out of State Discipline)  
(Bus. & Prof. Code § 2761, subd. (a)(4))

22 10. Complainant realleges the allegations contained in paragraph 9 above, and  
23 incorporates them by reference as if fully set forth.

24 11. Respondent has subjected his registered nurse license to disciplinary action under  
25 Code section 2761, subdivision (a)(4), in that on or about February 13, 2009, in a disciplinary  
26 action before the Virginia Board of Nursing (Virginia Board), the Virginia Board entered an  
27 Order placing Respondent’s Virginia registered nurse license on probation for 24 months. The  
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1 Order required Respondent to: (1) complete 24 months of active employment as a registered  
2 nurse; (2) inform the Board in writing within 10 days of the date he begins nursing practice,  
3 changes employment, or experiences any interruption in nursing practice; (3) provide the name  
4 and address of each employer to the Board; (4) inform his current nursing employer and each  
5 future nursing employer that the Virginia Board has placed him on probation and provide each  
6 employer with a complete copy of the Order and if employed with a staffing agency, inform his  
7 supervisor in each facility where assigned that he is on probation; (5) undergo an evaluation by a  
8 chemical dependency specialist satisfactory to the Board and have a written report of the  
9 evaluation, including diagnosis, a recommended course of therapy, and a prognosis sent to the  
10 Board within 45 days from the entry of the Order; (6) comply with any recommendations of the  
11 specialist and if therapy is recommended, submit quarterly written progress reports from the  
12 therapist to the Board until Respondent is released from therapy; (7) abstain from alcohol or any  
13 other mood altering chemical, except as prescribed by a health care practitioner with whom  
14 Respondent has a bona fide practitioner/patient relationship for accepted medicinal or therapeutic  
15 purposes; (8) have one supervised and unannounced random drug screen per month by a Board-  
16 approved testing entity, which includes testing for alcohol, Fentanyl, and opiates; (9) provide all  
17 current and future treating practitioners with a complete copy of the Order and execute an  
18 "Authorization for Disclosure of Information" form allowing unrestricted communication  
19 between the Board and any court-appointed probation or parole officers and any consultants  
20 designated by the Board; (10) submit quarterly self-reports to the Board which include a current  
21 address, telephone number, verification of all current employment, and employment status;  
22 (11) return all copies of his license to the Board so that a new license can be issued that reflects  
23 the probationary status of his license; and (12) conduct himself as a professional nurse.

24 12. The underlying conduct supporting the Virginia Board's disciplinary action is that on  
25 or about November 10, 2008, the Virginia Board sent Respondent a Notice of Informal  
26 Conference notifying him that an informal conference would be held before the Virginia Board  
27 on or about December 9, 2008. According the Virginia Board's Order, Respondent's voluntary  
28 surrender of his Kentucky license and registration as stated in paragraph 9 above, was based upon

1 his admitted diversion of drugs for his own personal and unauthorized use between February  
2 2007, and April 2007, while employed as a contract anesthetist with Whitesburg Appalachian  
3 Regional Hospital in Whitesburg, Kentucky. Furthermore, on or about April 30, 2008,  
4 Respondent pled guilty to 36 misdemeanor counts of "theft of a controlled substance, second  
5 degree," in Letcher County Circuit Court of the Court of Justice for the Commonwealth of  
6 Kentucky. Respondent was sentenced to 12 months of imprisonment, with judgment withheld  
7 pending his successful completion of two years of unsupervised probation.

8 THIRD CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct – False Statement or Information in Application)  
10 (Bus. & Prof. Code § 2761, subd. (e))

11 13. Complainant realleges the allegations contained in paragraphs 9 through 12 above,  
12 and incorporates them by reference as if fully set forth.

13 14. Respondent has subjected his registered nurse license to disciplinary action under  
14 Code section 2761, subdivision (e), in that he made or gave false statements and information to  
15 the California Board in connection with his application for renewal of his California registered  
16 nurse license. The circumstances are as follows:

17 15. On or about December 7, 2008, Respondent submitted a "Renewal Application for  
18 Registered Nurse" to the California Board of Registered Nursing. In his renewal application,  
19 Respondent denied having been convicted of or pleading nolo contendere to any violation of the  
20 law in California or any other U.S. state or foreign country since he last renewed his license.  
21 Prior to December 2008, Respondent last renewed his license on or about December 1, 2006.  
22 Respondent's denial of having been convicted of any violation of the law since he last renewed  
23 his license constitutes a misrepresentation because on or about April 30, 2008, he pled guilty to  
24 and was convicted of 36 counts of "theft of a controlled substance, second degree," in Letcher  
25 County Circuit Court of the Court of Justice for the Commonwealth of Kentucky.  
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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
3 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 656199, issued to  
5 Michael Scott Addair;

6 2. Ordering Michael Scott Addair to pay the Board of Registered Nursing the reasonable  
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
8 Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.  
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12 DATED: June 13, 2011

Louise R. Bailey  
13 LOUISE R. BAILEY, M.ED., RN  
14 Executive Officer  
15 Board of Registered Nursing  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

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